

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application: 10/668,228 Confirmation No.: 2048
Applicants: John Pope and John Herries
Filing Date: 24 September 2003
Examiner: Sang H. Nguyen
Art Unit: 2877
Docket No.: WD-2
Customer No.: 29039
Title: In Situ Detection and Analysis of Methane in Coal Bed Methane Formations with Spectrophotometers
Date: 30 July 2010

Declaration of John M. Pope, Ph.D.

I, John M. Pope, Ph.D., hereby declare as follows:

1. I am a co-inventor of the above-identified reissue patent application. I was also a founder and later, at various times, the President and then the Chief Technology Officer (CTO) of WellDog Inc. that was located in Laramie, Wyoming. WellDog was founded in 2004 as a spin out from The Blue Sky Group Inc. (Blue Sky) in Laramie, Wyoming, of which I was sole founder. I hold a B.S. degree in physics from the University of Missouri at Rolla and I receive a Ph.D. degree in physical chemistry at the University of Wyoming. I have been an inventor or co-inventor on at least 10 patent applications and issued U.S. patents.

2. I am providing this Declaration to show that the delay in paying the issue fees of the above-identified patent application was unintentional and was not a result of any deliberate decision to abandon this reissue patent application on the part of the defunct WellDog Inc. or the purchaser of the assets of WellDog Inc., that is Gas Sensing Technology (GST).

3. I left WellDog in February 2007. Thereafter the new majority owners of WellDog indicated in August 2007 that they intended to cease operations and place the company under bankruptcy protection. In November 2007, Blue Sky was able to allocate monies from our other portfolio companies to establish and capitalize Gas Sensing Technology (GST) so that company could purchase substantially all of the assets of WellDog Inc. During the purchase of the WellDog assets, many patent applications were listed in the asset purchase agreement but there was no indication of the status of pending patent applications. The schedule of patent assets appended to the Asset Purchase Agreement is attached hereto as Exhibit A. The above-identified patent application is included in Exhibit A.

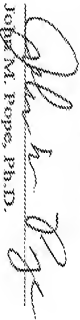
4. The WellDog patent portfolio was managed by attorney Will Ackerman, who is listed as power of attorney for the above-identified patent application. However, upon information and belief, Mr. Ackerman did not notify WellDog of the need to pay the issue fee of the above-identified patent application (which should have been paid as a small entity). Therefore, upon information and belief, WellDog did not intend to abandon the above-identified patent application.

5. After the WellDog asset purchase, Blue Sky had no patent attorney readily available to it. No active patent attorneys work in Wyoming, to our knowledge, and very few work in the Front Range of Colorado. After a lengthy search, the company was able to find and retain Jeffrey Oster, an attorney (registered with the USPTO) who works part-time for one of the company's portfolio companies, nanoMaterials Discovery Corp. I asked Mr. Oster about the status of the above-identified patent application. He advised me, based on the information and my recollection of the situation at WellDog and GST, that we should file a petition to revive this reissue patent application and explain the story to the best of my recollection.

6. In starting to run GST, the first order of business to do was to file a lawsuit against two former and laid off WellDog employees who appeared to have taken trade secret information and formed a competing company to WellDog at the time WellDog ceased operations. While I had hoped to be able to offer employment to both individuals, both had decided that WellDog, having ceased operation relieved them of their obligations to maintain trade secret information. Ultimately, GST was able to enjoin the split off operation that was trying to compete with GST using the same methods and operations protected by various forms of intellectual property purchased from WellDog in the asset purchase. That effort delayed our ability to then address the patent applications that were abandoned while WellDog was in charge.

7. Therefore, upon information and belief, there was no deliberate decision to abandon the above-identified reissue patent application made at WellDog. Further, based upon my information and belief, the delay in filing a petition to revive was unintended as GST moved to revive the business sequentially.

8. I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.


John M. Pope, Ph.D.

Date 9 August 2010